Justice of the Peace. After they had lived together about a week the defendant (husband) left the plaintiff, who later brought a collusive suit as a result of which the marriage was annulled. The plaintiff now seeks to have the decree of annullment set aside. *Held,* that a valid common law marriage had taken place, even though a license is required in New Jersey, and the decree of annullment was set aside. *Davidson* v. *Ream* (N. Y. 1916), 161 N. Y. Supp. 73.

Although parties are married without the license required by statute, the marriage will be valid if consummated, provided that the words of the statute do not expressly declare such a marriage void. *State* v. *Bittick,* 103 Mo. 183; *State* v. *Parker,* 106 N. C. 711; *Askew* v. *Dupree,* 30 Ga. 173; *Dumaresly* v. *Fishly,* 3 A. K. Marsh. (Ky.) 368. Many interesting questions were discussed by the court in reaching the above decision. The court said that a contract per verba de presenti is sufficient to constitute a valid common law marriage though not followed by cohabitation, and cites cases to support it. This is a disputed point. Many cases have said that the simple contract is sufficient, but the exact question has generally not been involved in the decision. The cases cited by the court in this case do not involve a decision of the exact question. In *Jackson ex dem* v. *Winne,* 7 Wend. (N. Y.) 47, there was an actual ceremonial marriage. In *Fenton* v. *Reed,* 4 Johns. 51; *Caujolle* v. *Ferrie,* 23 N. Y. 90; *Van Tuyl* v. *Van Tuyl,* 57 Barb. 235; *Davis* v. *Stouffer,* 132 Mo. App. 555; and *Bey* v. *Bey,* 83 N. J. Eq. 239, 90 Atl. 685, it appeared that there had been an actual consummation of the marriage by cohabitation after the contract of marriage per verba de presenti. In *Clayton* v. *Wardell,* 4 N. Y. 230, there had been cohabitation without a contract of marriage. In *Mathewson* v. *Phoenix Iron Foundry,* 20 Fed. 281, it does not appear whether or not cohabitation took place after the written contract of marriage. The marriage was held valid. In the cases sometimes cited to support the above proposition, *Dyer* v. *Brannock,* 66 Mo. 391; *Topper* v. *Perry,* 197 Mo. 531; *Port* v. *Port,* 70 Ill. 484; *Carey* v. *Hulett,* 66 Minn. 327, there was cohabitation either with or without a previous contract of marriage by words of present contract. *Davis* v. *Davis,* 7 Daly. (N. Y.) 308, presents the question squarely and a marriage was held to be valid, although the ceremony was not sufficient to constitute a statutory marriage, nor was it followed by cohabitation. *Herd* v. *Herd,* 69 So. 885, 14 MICH. L. REV. 260 reaches an opposite conclusion and a marriage ceremony performed after securing an invalid license and not followed by cohabitation was held not to constitute a marriage. *Ashley* v. *State,* 109 Ala. 48, also reaches the same conclusion upon similar facts.

CONSTITUTIONAL LAW—DEFRAUDING GOVERNMENT.—Accused obtained a contract from the manager of the commissary department of the Panama Railroad Company to supply said company with a certain quantity of tobacco and agreed to and did pay over to the manager one-half of the profits which he had made through the contract. Defendant was indicted under §37 of Penal Code (Act March 4, 1909, c. 321, 35 Stat. 1096, Comp. St. 1913 §10201), which provides: "If two or more persons conspire either to commit any of-

fense against the United States or to defraud the United States in any manner or for any purpose and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined not more than ten thousand dollars, or imprisoned not more than two years, or both." *Held,* that when the United States enters into commercial business, it abandons its sovereign capacity, and is to be treated like any other corporation; therefore, though it absolutely owns the Panama Railroad Company, and is the only one profiting or losing by the railroad company's activities, a conspiracy to defraud the railroad company is not a conspiracy to defraud the United States. *Salas* v. *United States,* 234 Fed. 842.

The case came up on appeal to the Circuit Court of Appeals, Second District, from the District Court for the Southern District of New York, where the defendant was convicted of conspiracy to defraud the United States. *United States* v. *Burke, et al.,* 221 Fed. 1014. Upon appeal, the Circuit Court of Appeals reversed the decision of the District Court, finding that there was no conspiracy to commit any offense against the United States. In arriving at this conclusion the court relied strongly on the case of *Bank of United States* v. *Planters Bank,* 9 Wheat. 904, 6 L. Ed. 244, which had decided that a bank is not exempt from suit under the eleventh amendment because a part of its capital stock is owned by a state. In this case, MARSHALL, C. J., in the course of his opinion stated, "It is, we think, a sound principle that when a government becomes a partner in any trading company, it devests itself, so far as concerns the transactions of that company, of its sovereign character and takes that of a private citizen." Thus, in reliance on the preceding case, it has been held that the fact that South Carolina was a member of a certain railroad company did not oust the jurisdiction of the federal courts, *Louisville R. R. Co.* v. *Letson,* 2 How. 550, 551, 11 L. Ed. 375; that the Chesapeake & Ohio Canal Company was not entitled, by reason of the state being a shareholder, to exercise any larger rights than were given by its charter, *Brady* v. *State,* 26 Md. 302; that debts due to a bank wholly owned by the state are not entitled to priority under an insolvency law, *Fields* v. *Creditors,* 1 Sneed. 354. Two of the three judges, WARD and COXE, considered that the opinion of Chief Justice MARSHALL in *Bank of United States* v. *Planters' Bank, supra,* might be relied on as decisive of the present case, that the United States in operating the Panama Canal was engaged in a commercial business and had abandoned its sovereign capacity, and therefore a crime against the Panama Railroad Company was not a crime against the United States. CHATFIELD, J., dissenting, considered that the Panama Railroad Company was a department under the Isthmian Canal Commission, an agency of the United States, and therefore defrauding the Panama Railroad Company was not a crime against a private corporation, but a crime against the United States.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF LAWS—INTERSTATE COMMERCE.—The plaintiff railroad company is a consolidated corporation, existing by virtue of the consolidation, under concurrent acts of the states of